

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Applicant	: Tim Bucher, et al.	
Appln. No.	: 10/822.313	Confirmation No: 2577
Filed	: April 12, 2004	Group Art Unit: 2109
Title	: SERVICE PLATFORM APPLICATION DISTRIBUTION MANAGER	Examiner: Smith, Cheneca
		Docket No. STL12994/ 390-017-USP

REQUEST TO WITHDRAW FINALITY OF OFFICE ACTION

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Final Office Action mailed July 26, 2007 indicates, at page 2, that “Applicant’s amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**” Applicants respectfully disagree that Applicant’s amendments to the claims necessitated new grounds of rejection. Therefore, Applicants assert that the finality of this Office Action is premature and improper.

Independent claim 1 was previously amended to delete a portion of the preamble, and to place the claim in better form. The subject matter of claim 1 remains the same. Claims 4-6 were amended only to correct errors in dependency. Independent claim 8 was amended only to delete a portion of the preamble and to correct informalities. The subject matter of independent claim 8 remains the same. Claims 9-15 and 17 were amended to be consistent with claim 8, from which they depend, and to correct informalities. Claim 16 was amended to be consistent with independent claim 8 and to delete a limitation. Claim 18 was amended only to delete a portion of the preamble. The subject matter of claim 18 remains the same. Claim 26 was amended only to delete a portion of the preamble and to clarify that resources are “hardware and software”

resources. The subject matter of claim 26 remains the same. Claims 27-29 were amended only to be consistent with claim 26, from which they depend.

MPEP §706.07(a) states that “[b]efore final rejection is in order a clear issue should be developed between the examiner and applicant.” Applicants respectfully submit that, although the claimed subject matter has not changed, European Patent Application EP1211596 A1 to Brebner (“Brebner”) is newly cited as the primary reference in this Final Office Action. Features of the claims which the Office previously alleged to be taught by U.S. Patent No. 6,151,643 to Cheng, et al. (“Cheng”) are now alleged to be taught by Brebner instead. Thus, Applicants disagree with the assertion that “Applicant’s arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.” See Final Office Action at page 2. Rather, it appears that Applicants’ arguments to overcome Cheng were indeed persuasive because the subject matter of the claims has not changed. Accordingly, Applicants request reconsideration and withdrawal of the finality of the Office Action mailed July 26, 2007.

Applicants believe no other fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this a request therefor and authorization to charge Deposit Account No. 50-3199 as necessary.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney. If the Examiner believes any issues could be resolved via a telephone interview, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: September 26, 2007

/Richard J. Holzer, Jr./

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